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**FEDERAL BUREAU OF INVESTIGATION
CHILD EXPLOITATION TASK FORCE (CETF)
MEMORANDUM OF UNDERSTANDING****PARTIES**

This Memorandum of Understanding (MOU) is entered into by and between the Federal Bureau of Investigation (FBI) and the Everett Police Department (EPD). Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation which exists between these agencies.

AUTHORITIES

1. Authority for the FBI to enter into this agreement can be found at Title 28, United States Code (U.S.C.), Section (§) 533; 42 U.S.C. § 3771; Title 28, Code of Federal Regulations (C.F.R.), § 0.85; and applicable United States Attorney General's Guidelines.

PURPOSE

2. The purpose of this MOU is to delineate the responsibilities of Seattle Headquarters Child Exploitation Task Force (CETF) participants, maximize inter-agency cooperation, and formalize relationships between the participating agencies for policy guidance, planning, training, public and media relations. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.

MISSION

3. The mission of the CETF is to identify and target for prosecution criminal enterprise groups responsible for promotion of prostitution, specifically juvenile prostitution, interstate or through use of interstate commerce, drug trafficking, money laundering, alien smuggling, and violent street gangs, as well as to intensely focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The CETF will enhance the effectiveness of federal/state/local law enforcement resources through a well-coordinated initiative seeking the most effective investigative/prosecutive avenues by which to convict and incarcerate dangerous offenders.

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SUPERVISION AND CONTROL

A. Supervision

4. Overall management of the CETF shall be the shared responsibility of the participating agency heads and/or their designees.
5. The Special Agent in Charge (SAC) of the Seattle Division shall designate one Supervisory Special Agent (CETF Supervisor) to supervise the CETF. The CETF Supervisor may designate a Special Agent to serve as the Child Exploitation Task Force Coordinator (Task Force Coordinator), overseeing the day-to-day operational and investigative matters pertaining to the CETF.
6. Responsibility for conduct, not under the direction of the SAC, CETF Supervisor, or Task Force Coordinator of each CETF member, both personally and professionally, shall remain with the respective agency head and each agency shall be responsible for the actions of its respective employees.
7. Each CETF member will be subject to the laws, regulations, policies, and personnel rules applicable to his or her respective agency. FBI participants will continue to adhere to the Bureau's ethical standards, including Department of Justice (DOJ)/FBI regulations relating to outside employment and prepublication review matters, and will remain subject to the Supplemental Standards of Ethical Conduct for employees of the DOJ.
8. Each CETF member will continue to report to his or her respective agency head for non-investigative administrative matters not detailed in this MOU.
9. Continued assignment to the CETF will be based on performance and at the discretion of each CETF member's respective supervisor. The FBI SAC and CETF Supervisor will also retain discretion to remove any member from the CETF.

B. Case Assignments

10. The FBI CETF Supervisor will be responsible for opening, monitoring, directing, and closing CETF investigations in accordance with existing FBI policy and the applicable United States Attorney General's Guidelines.
11. Assignments of cases to personnel will be based on, but not limited to, experience, training and performance, in addition to the discretion of the CETF Supervisor.
12. For FBI administrative purposes, CETF cases will be entered into the relevant FBI computer system.
13. CETF members will have equal responsibility for each case assigned. CETF personnel will be totally responsible for the complete investigation from predication to resolution.

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C. Resource Control

14. The head of each participating agency shall determine the resources to be dedicated by that agency to the CETF, including personnel, as well as the continued dedication of those resources. The participating agency head or designee shall be kept fully apprised of all investigative developments by his or her subordinates.

OPERATIONS

A. Investigative Exclusivity

15. It is agreed that matters designated to be handled by the CETF will not knowingly be subject to non-CETF law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the CETF's existence and areas of concern.

16. It is agreed that there is to be no unilateral action taken on the part of the FBI or participating agencies relating to CETF investigations or areas of concern as described in paragraph 3. All law enforcement actions will be coordinated and cooperatively carried out.

17. CETF investigative leads outside of the geographic areas of responsibility for FBI Seattle Division will be communicated to other FBI offices for appropriate investigation.

B. Informants

18. The disclosure of FBI informants to non-CETF members will be limited to those situations where it is essential to the effective performance of the CETF. These disclosures will be consistent with applicable FBI guidelines.

19. Non-FBI CETF members may not make any further disclosure of the identity of an FBI informant, including to other members of the CETF. No documents which identify, tend to identify, or may indirectly identify an FBI informant may be released without prior FBI approval.

20. In those instances where a participating agency provides an informant, the FBI may, at the discretion of the SAC, become solely responsible for the informant's continued development, operation, and compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.

21. The United States Attorney General's Guidelines and FBI policy and procedure for operating FBI informants and cooperating witnesses (CWs) shall apply to all FBI informants and CWs opened and operated in furtherance of CETF investigations. Documentation of, and any payments made to, FBI informants and CWs shall be in accordance with FBI policy and procedure.

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22. Operation, documentation, and payment of solely state, county, or local informants and CWs opened and operated by non-FBI CETF members in furtherance of CETF investigations must be in accordance with the United States Attorney General's Guidelines. Documentation of state, county, or local informants and CWs opened and operated in furtherance of CETF investigations shall be maintained at an agreed to location.

C. Reports and Records

23. All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by each member of the CETF will be made available for inclusion in the respective investigative agencies' files as appropriate.

24. CETF reports prepared in cases assigned to state, county, or local participants will be maintained at an FBI approved location; original documents will be maintained by the FBI.

25. Records and reports generated in CETF cases which are opened and assigned by the FBI SSA with designated oversight for investigative and personnel matters will be maintained in the FBI investigative file for CETF.

26. CETF investigative records maintained at the Seattle Field Office of the FBI will be available to all CETF members, as well as their supervisory and command staff subject to pertinent legal, administrative and/or policy restrictions.

27. All evidence and original tape recordings (audio and video) acquired by the FBI during the course of the CETF investigations will be maintained by the FBI. The FBI's rules and policies governing the submission, retrieval and chain of custody will be adhered to by CETF personnel.

28. All CETF investigative records will be maintained at an approved FBI location. Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies, subject to SSA approval.

29. Classified information and/or documents containing information that identifies or tends to identify an FBI informant shall not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.

30. The Parties acknowledge that the information that members will be able to access as a result of this MOU may contain information about U.S. persons, which may be protected by the Privacy Act of 1974 and/or Executive Order 12333. The Parties expressly agree that all such information will be handled lawfully pursuant to the provisions thereof. The Parties further agree that if this access to information by the members requires a change in

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privacy compliance documents, those changes will be accomplished prior to access being granted.

INFORMATION SHARING

31. No information possessed by the FBI, to include information derived from informal communications by the CETF member with personnel of the FBI, may be disseminated by the CETF member to non-CETF personnel without the approval of the CETF Supervisor and in accordance with the applicable laws and internal regulations, procedures or agreements between the FBI and the participating agencies that would permit the participating agencies to receive that information directly. Likewise, the CETF member will not provide any participating agency information to the FBI that is not otherwise available to it unless authorized by appropriate participating agency officials.

PROSECUTIONS

32. CETF investigative procedures, whenever practicable, are to conform to the requirements which would allow for either federal or state prosecution.

33. A determination will be made on a case-by-case basis whether the prosecution of CETF cases will be at the state or federal level. This determination will be based on the evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the CETF.

34. In the event that a state or local matter is developed that is outside the jurisdiction of the FBI or it is decided to prosecute a CETF case at the state or local level, the FBI agrees to provide all relevant information to state and local authorities in accordance with all applicable legal limitations.

A. Investigative Methods/Evidence

35. For cases assigned to an FBI Special Agent or in which FBI informants or CWs are utilized, the parties agree to conform to federal standards concerning evidence collection, processing, storage, and electronic surveillance. However, in situations where the investigation will be prosecuted in the State Court where statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by FBI case agents shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

36. In all cases assigned to state, county, or local law enforcement participants, the parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities as outlined in the Domestic Investigations and Operations Guide to the greatest extent possible. However, in situations where the statutory or common law of the state

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is more restrictive than the comparable federal law, the investigative methods employed by state and local law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

37. The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policies and procedures of the FBI.

B. Undercover Operations

38. All CETF undercover operations will be conducted and reviewed in accordance with FBI guidelines and the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations. All participating agencies may be requested to enter into an additional agreement if a member of the participating agency is assigned duties which require the officer to act in an undercover capacity.

DEADLY FORCE AND SHOOTING INCIDENT POLICIES

39. Members of the CETF will follow their own agency's policy concerning firearms discharge and use of deadly force.

DEPUTATIONS

40. Local and state law enforcement personnel designated to the CETF, subject to a limited background inquiry, may be sworn as federally deputized Special Deputy United States Marshals, with the FBI securing the required deputation authorization. These deputations should remain in effect throughout the tenure of each investigator's assignment to the CETF or until the termination of the CETF, whichever comes first.

41. Deputized CETF members will be subject to the rules and regulations pertaining to such deputation. Administrative and personnel policies imposed by the participating agencies will not be voided by deputation of their respective personnel.

VEHICLES

42. In furtherance of this MOU, employees of LEA may be permitted to drive FBI owned or leased vehicles for official CETF business and only in accordance with applicable FBI rules and regulations, including those outlined in the FBI Manual of Administrative Operations and Procedures (MAOP), Part I, Section 3.1. The assignment of an FBI owned or leased vehicle to a LEA CETF member will require the execution of a separate Vehicle Use Agreement.

43. The participating agencies agree that FBI vehicles will not be used to transport passengers unrelated to CETF business.

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44. The FBI and the United States will not be responsible for any tortious act or omission on the part of LEA and/or its employees or for any liability resulting from the use of an FBI owned or leased vehicle utilized by an LEA CETF member, except where liability may fall under the provisions of the Federal Tort Claims Act (FTCA), as discussed in the Liability Section herein below.

45. The FBI and the United States shall not be responsible for any civil liability arising from the use of an FBI owned or leased vehicle by an LEA task force member while engaged in any conduct other than his or her official duties and assignments under this MOU.

46. To the extent permitted by applicable law, LEA agrees to hold harmless the FBI and the United States, for any claim for property damage or personal injury arising from any use of an FBI owned or leased vehicle by an LEA CETF member which is outside the scope of his or her official duties and assignments under this MOU.

SALARY/OVERTIME COMPENSATION

47. The FBI and LEA remain responsible for all personnel costs for their CETF representatives, including salaries, overtime payments and fringe benefits consistent with their respective agency, except as described in paragraph 48 below.

48. Subject to funding availability and legislative authorization, the FBI will reimburse to LEA the cost of overtime worked by non-federal CETF members assigned full-time to CETF, provided overtime expenses were incurred as a result of CETF-related duties, and subject to the provisions and limitations set forth in a separate Cost Reimbursement Agreement to be executed in conjunction with this MOU. A separate Cost Reimbursement Agreement must be executed between the FBI and LEA for full-time employee(s) assigned to CETF, consistent with regulations and policy, prior to any reimbursement by the FBI. Otherwise, overtime shall be compensated in accordance with applicable LEA overtime provisions and shall be subject to the prior approval of appropriate personnel.

PROPERTY AND EQUIPMENT

49. Property utilized by the CETF in connection with authorized investigations and/or operations and in the custody and control and used at the direction of the CETF, will be maintained in accordance with the policies and procedures of the agency supplying the equipment. Property damaged or destroyed which was utilized by CETF in connection with authorized investigations and/or operations and is in the custody and control and used at the direction of CETF, will be the financial responsibility of the agency supplying said property.

FUNDING

50. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in

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writing, each party shall bear its own costs in relation to this MOU. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures.

FORFEITURES

51. The FBI shall be responsible for processing assets seized for federal forfeiture in conjunction with CETF operations.

52. Asset forfeitures will be conducted in accordance with federal law, and the rules and regulations set forth by the FBI and DOJ. Forfeitures attributable to CETF investigations may be equitably shared with the agencies participating in the CETF.

DISPUTE RESOLUTION

53. In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the CETF's objectives.

54. The participating agencies agree to attempt to resolve any disputes regarding jurisdiction, case assignments, workload, etc., at the field level first before referring the matter to supervisory personnel for resolution.

MEDIA RELEASES

55. All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines.

56. Press releases will conform to DOJ Guidelines regarding press releases. No release will be issued without FBI final approval.

SELECTION TO CETF AND SECURITY CLEARANCES

57. If an LEA candidate for the CETF will require a security clearance, he or she will be contacted by FBI security personnel to begin the background investigation process prior to the assigned start date.

58. If, for any reason, the FBI determines that an LEA candidate is not qualified or eligible to serve on the CETF, the participating agency will be so advised and a request will be made for another candidate.

59. Upon being selected, each candidate will receive a comprehensive briefing on FBI field office security policies and procedures. During the briefing, each candidate will execute non-disclosure agreements (SF-312 and FD-868), as may be necessary or required by the FBI.

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60. Before receiving unescorted access to FBI space identified as an open storage facility, CETF members will be required to obtain and maintain a "Top Secret" security clearance. CETF members will not be allowed unescorted access to FBI space unless they have received a Top Secret security clearance.

61. Upon departure from the CETF, each candidate will be given a security debriefing and reminded of the provisions contained in the non-disclosure agreement previously agreed to by the CETF member.

LIABILITY

62. The participating agencies acknowledge that this MOU does not alter the applicable law governing civil liability, if any, arising from the conduct of personnel assigned to the CETF.

63. The participating agency shall immediately notify the FBI of any civil, administrative, or criminal claim, complaint, discovery request, or other request for information of which the agency receives notice, concerning or arising from the conduct of personnel assigned to the CETF or otherwise relating to the CETF. The participating agency acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to the CETF remains vested with his or her employing agency. In the event that a civil claim or complaint is brought against a state or local officer assigned to the CETF, the officer may request legal representation and/or defense by DOJ, under the circumstances and pursuant to the statutes and regulations identified below.

64. For the limited purpose of defending against a civil claim arising from alleged negligent or wrongful conduct under common law under the FTCA, 28 U.S.C. § 1346(b), and §§ 2671-2680: An officer who has been specially deputized and who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request to be certified by the Attorney General or his designee as having acted within the scope of federal employment at the time of the incident giving rise to the suit. 28 U.S.C. § 2679(d)(2). Upon such certification, the officer will be considered an "employee" of the United States government for the limited purpose of defending the civil claim under the FTCA, and the claim will proceed against the United States as sole defendant. 28 U.S.C. § 2679(d)(2). Once an individual is certified as an employee of the United States for purposes of the FTCA, the United States is substituted for the employee as the sole defendant with respect to any tort claims. Decisions regarding certification of employment under the FTCA are made on a case-by-case basis, and the FBI cannot guarantee such certification to any CETF member.

65. For the limited purpose of defending against a civil claim arising from an alleged violation of the U.S. Constitution pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971): An officer who has been specially deputized and who is named as a defendant in a civil action as a result of or in

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connection with the performance of his or her official duties and assignments pursuant to this MOU may request individual-capacity representation by DOJ to defend against the claims. 28 C.F.R. §§ 50.15, 50.16. Any such request for individual-capacity representation must be made in the form of a letter from the individual defendant to the U.S. Attorney General. The letter should be provided to Chief Division Counsel (CDC) for the FBI Seattle Division, who will then coordinate the request with the FBI Office of the General Counsel. In the event of an adverse judgment against the individual officer, he or she may request indemnification from DOJ. 28 C.F.R. § 50.15(c)(4). Requests for DOJ representation and indemnification are determined by DOJ on a case-by-case basis. The FBI cannot guarantee the United States will provide legal representation or indemnification to any federal, state or local law enforcement officer.

66. Liability for any conduct by an CETF member undertaken outside of the scope of his or her assigned duties and responsibilities under this MOU shall not be the responsibility of the FBI or the United States and shall be the sole responsibility of the respective employee and/or agency involved.

DURATION

67. The term of this MOU is for the duration of the CETF's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.

68. Any participating agency may withdraw from the CETF at any time by written notification to the SSA with designated oversight for investigative and personnel matters or program manager of the CETF at least 30 days prior to withdrawal.

69. Upon termination of this MOU, all equipment provided to the CETF will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any CETF participation.

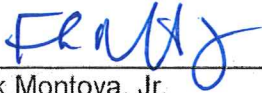
MODIFICATIONS

70. This agreement may be modified at any time by written consent of all involved agencies.

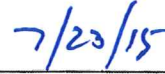
71. Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

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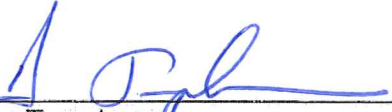
SIGNATORIES



Frank Montoya, Jr.
Special Agent in Charge
Federal Bureau of Investigation



Date



Dan Templeman
Chief of Police
Everett Police Department



Date

AGREED:

CITY OF EVERETT, WASHINGTON

By:

Ray Stephanson
Ray Stephanson, Mayor

Date:

6/24/2015

ATTEST:

Sharon Fuller
Sharon Fuller, City Clerk

Date:

6/24/15

APPROVED AS TO FORM:

James D. Iles
James D. Iles, City Attorney

Date:

6/22/15

MDU

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

#21

PROJECT TITLE:

Federal Bureau of
Investigation Child
Exploitation Task Force
Memorandum of
Understanding

_____ Briefing
_____ Proposed Action
_____ Consent
_____ X Action
_____ First Reading
_____ Second Reading
_____ Third Reading
_____ Public Hearing
_____ Budget Advisory

COUNCIL BILL #

Originating Department

Contact Person

Phone Number

FOR AGENDA OF

Police

D/C Lever

(425) 257-8418

6/17/2015

Initialed by:

Department Head

CAA

Council President

dl

AB

Location

Police Department

Preceding Action

Attachments

Department(s) Approval

Legal

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The Federal Bureau of Investigation (FBI) has the authority to direct and coordinate regional FBI Child Exploitation Task Forces (CETF) consisting of federal, state and local law enforcement officers. The intent of this joint effort is to identify and target for prosecution criminal enterprise groups responsible for promotion of prostitution, specifically juvenile prostitution, interstate or through the use of interstate commerce, drug trafficking, money laundering, alien smuggling and violent street gangs.

The Everett Police Department would like to participate in the FBI Seattle Headquarters CETF. This Memorandum of Understanding sets forth the requirements and responsibilities for the Everett Police Department to participate in the task force and potentially receive reimbursement of overtime costs associated with participation in operations coordinated by the CETF.

Council approved
6/17/15 Jan

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the Federal Bureau of Investigation Child Exploitation Task Force Memorandum of Understanding at no cost to the City.